

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

GARY D. WALKER,

Petitioner, : Case No. 1:13-cv-159

- vs -

District Judge Michael R. Barrett
Magistrate Judge Michael R. Merz

WARDEN, Lebanon Correctional Institution,

Respondent.

**DECISION AND ORDER DENYING MOTION TO FILE A
SUPPLEMENT WRIT**

This habeas corpus case is before the Court on Petitioner's Motion for Leave to File a Supplement[al] Writ of Habeas Corpus pursuant to Fed. R. Civ. P. 15(d). His purpose is to add claims recently exhausted by decline of jurisdiction by the Ohio Supreme Court over an appeal of denial of his Amended Petition for Post-Conviction Relief.

The purpose of Fed. R. Civ. P. 15(d) is to permit a litigant to add to a case a claim arising out of a transaction, occurrence, or event that happened after the case was filed. Walker's new claims presumably attack the same judgment that is the subject of the Petition in this case. While Walker may have recently exhausted available state court remedies for his new claims, those claims arose when he was convicted, not when he completed exhaustion.

To bring these new claims before the Court, Walker must amend his currently pending Petition. Because the State has answered, Walker must have their consent or leave of court to amend. If he moves to amend, he must attach to the motion a copy of the proposed amended petition so that the Respondent can decide whether or not to oppose amendment. Walker is

cautioned that any proposed amendment will be subject to analysis under the statute of limitations.

The Motion to Supplement is DENIED.

October 8, 2015.

s/ *Michael R. Merz*
United States Magistrate Judge